

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Promoting Diversification in the) MB Docket No. 07-294
Broadcasting Services)
2006 Quadrennial Regulatory Review – Review of) MB Docket No. 06-121
the Commission’s Broadcast Ownership Rules and)
Other Rules Adopted Pursuant to Section 202 of)
the Telecommunications Act of 1996)
2002 Biennial Regulatory Review – Review of the) MB Docket No. 02-277
Commission’s Broadcast Ownership Rules and)
Other Rules Adopted Pursuant to Section 202 of)
the Telecommunications Act of 1996)
Cross-Ownership of Broadcast Stations and) MM Docket No. 01-235
Newspapers)
Rules and Policies Concerning Multiple) MM Docket No. 01-317
Ownership of Radio Broadcast Stations in Local)
Markets)
Definition of Radio Markets) MM Docket 00-244
Ways to Further Section 257 Mandate and to Build) MB Docket No. 04-228
on Earlier Studies)

ORDER

Adopted: December 23, 2009

Released: December 23, 2009

By the Chief, Media Bureau:

1. On December 18, 2009, a number of counsel and legal assistants to various broadcasters and broadcaster organizations (the “Broadcast Counsel”) filed an Ex Parte Notice and Request for Relief, asking that we extend the time to file Form 323 and adopt other changes to FCC Form 323, including changing Section II-B Question 3(c) of the form to allow filers to respond by uploading machine-readable data instead of requiring manual data entry of the responses to the question.1 The Broadcast Counsel also asked that filing of the form be suspended until improvements are made to the form. By this Order, we suspend the requirement that Form 323 be filed biennially by the January 11, 2010 filing deadline. We will also grant an extension of time to file the form once the form is available again for biennial filings, of

1 “MB Docket No. 07-294, Ex Parte Notice and Request for Relief,” filed December 18, 2009 (the “Request”). The Request was signed by representatives of 14 law firms and the National Association of Broadcasters. In addition, on December 21, 2009, Simmons Media Group filed a letter in support of the Request. Simmons also asked that the form be revised to allow multiple licensees to be identified (through sub-forms) in response to Section I Question 7.

at least 90 days from that date, and we will announce the new filing deadline in a subsequently-released Public Notice. The “as of” date, November 1, 2009, will remain the same.

2. On April 8, 2009, the Commission adopted a *Report and Order and Fourth Further Notice of Proposed Rulemaking* in the above-captioned proceeding revising filing requirements for FCC Form 323, the broadcast Ownership Report.² Among other things, the *323 Order* substituted a uniform biennial filing deadline for the current system of rolling filing deadlines that are tied to a station’s renewal anniversary. Pursuant to these new requirements, all commercial full-power AM, FM, TV, LPTV, and Class A stations, as well as entities with attributable interests in them, were required to file the revised FCC Form 323 on or before January 11, 2010, with information current as of November 1, 2009, and to file biennially thereafter.³

3. In their Request, the Broadcast Counsel note that they have been working diligently to compile the information needed to complete Form 323 and to enter the data so as to file the form by the January 11, 2010 filing deadline. However, they note that they have experienced delays in completing the form because of the large amounts of data required to be entered for entities with complex ownership structures and because of technical problems working with the form on CDBS. In particular, they note that fully responding to Question 3(c) of Section II-B of the form requires large amounts of time for entities that have moderately complex ownership structures. Accordingly, they request that the Commission allow filers to respond to that question by uploading a machine-readable file rather than having to enter the data needed for the response manually.⁴ According to the Broadcast Counsel, if the current deadline is not extended, “many Forms will be incomplete, inaccurate or will not be filed at all because of time constraints and Form failures.”⁵

4. We find that good cause has been shown and that it would serve the public interest to suspend the current January 11, 2010 filing deadline.⁶ We will temporarily suspend the ability to start a new biennial Form 323 during this interim suspension period but will allow filers to complete and file forms that they have already started should they wish to do so. This temporary suspension will permit us to investigate what changes can be made to the form to reduce the time required to complete it and to lessen any unanticipated burdens in this regard without undermining the completeness, quality, usefulness, and aggregability of the data. Once these changes have been made, we will again enable new biennial filings and will release a Public Notice with a new extended filing deadline. The new filing

² *Report and Order and Fourth Further Notice of Proposed Rulemaking*, MB Docket No. 07-294, 24 FCC Rcd 5896 (2009) (“*323 Order*”).

³ *323 Order*, 24 FCC Rcd at 5902-05, 5908-09 ¶¶ 12-15, 22. For this 2009 biennial filing period, the Media Bureau previously extended the “as of” date to November 1, 2009 and the biennial filing deadline to January 11, 2010. See Public Notice, Media Bureau Extends the Biennial Filing Deadline for the Commercial Broadcast Ownership Report Form (Form 323), DA 09-2457 (rel. Nov. 23, 2009); Promoting Diversification in the Broadcasting Services, *Order*, DA 09-2165 (rel. Oct. 2, 2009). See also, Public Notice, Media Bureau Announces 2009 Biennial Filing Deadline For Commercial Broadcast Ownership Report (Form 323), DA 09-2275 (rel. Oct. 30, 2009). For future biennial filings, the “as of” date is October 1 and the filing date is November 1 of the applicable filing year.

⁴ Request at 1-2.

⁵ Request at 2.

⁶ In light of the filing extension, we dismiss as moot, Fletcher, Heald & Hildreth, PLC’s (“FHH”) November 16, 2009 Motion for Stay, which asked the Commission to stay, or otherwise hold in abeyance, the initial December 15, 2009 deadline for filing biennial broadcast ownership reports. We dismiss the motion without prejudice.

deadline will be at least 90 days from the date that the form is made available for new biennial filings.⁷ The “as of” date will remain the same, November 1, 2009, and will not be suspended or changed. During the interim biennial suspension period, we will not suspend non-biennial filings of Form 323 that are required by Section 73.3615 of the Commission’s rules and will require that these continue to be filed by to the deadlines enumerated in that rule.⁸

5. Accordingly, IT IS ORDERED, that pursuant to authority under Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), authority delegated to the Media Bureau pursuant to Sections 0.61, 0.204 and 0.283 of the Commission’s rules, 47 C.F.R. §§ 0.61, 0.204, 0.283, and authority delegated to the Media Bureau by the Commission’s Report and Order and Memorandum Opinion and Order in this proceeding,⁹ we grant the Ex Parte Notice and Request for Relief to the extent described in this Order.

6. IT IS FURTHER ORDERED, that pursuant to authority under Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), authority delegated to the Media Bureau pursuant to Sections 0.61, 0.204 and 0.283 of the Commission’s rules, 47 C.F.R. §§ 0.61, 0.204, 0.283, and authority delegated to the Media Bureau by the Commission’s Report and Order and Memorandum Opinion and Order in this proceeding,¹⁰ we dismiss as moot and without prejudice Fletcher, Heald & Hildreth, PLC’s Motion for Stay.

7. For additional information, please contact Mania Baghdadi, Judith Herman, or Kristi Thompson, Industry Analysis Division, Media Bureau, at (202) 418-2330.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

⁷ We will not require those who have already completed and filed their 2009 biennial Ownership Report to file again.

⁸ See 47 C.F.R. § 73.3615.

⁹ See 323 Order, 24 FCC Rcd at 5915 ¶ 51; Memorandum Opinion & Order and Fifth Notice of Proposed Rulemaking, MB Docket No. 07-294, FCC 09-192 (rel. Oct. 16, 2009).

¹⁰ *Id.*